

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Service and Eligibility Rules for)		MB Docket No. 07-172
FM Broadcast Translator Stations)		RM-11338
)	
)	

COMMENTS OF WIN RADIO BROADCASTING CORP.

WIN Radio Broadcasting Corp. (“WIN”), licensee of AM broadcast stations WNYH, 740 kHz, Huntington, New York, and WCTN, 950 kHz, Potomac-Cabin John, Maryland, through counsel and pursuant to Section 1.415 of the Rules, hereby submits these Comments concerning the proposal in this proceeding, *Notice of Proposed Rule Making*, 72 *Fed. Reg.* 62616 (November 6, 2007) (the “*NPRM*”), to permit the rebroadcast of AM broadcast stations on FM broadcast translators. Both WNYH and WCTN are directional daytime stations, not authorized for regular night-time operation.¹

The importance of AM radio as an information medium is, in many respects, growing, not withering. AM radio is home to news, talk and sports formats, much foreign language and religious programming, and other specialized services such as business programming. All of these formats can be found on daytime-only radio stations. (In these Comments, the term “daytime-only” is used to refer to stations licensed to operate only

¹ Both stations have secondary authority for very low power night-time operation, 43 watts for WNYH and 47 watts for WCTN.

during daytime hours, and those such as WNYH and WCTN that hold secondary nighttime authority to operate with very low power.)

The *NPRM* succinctly summarizes the challenges faced by daytime-only AM stations. Among these are the recent extension of Daylight Savings Time. *NPRM*, ¶ 3. Probably more important are the burgeoning sources of interference to AM signals during all hours of the day, including computers, fluorescent lighting and power lines. *NPRM*, ¶ 4.

Previously, this interference was most significant for car radios and in offices, where much listening to radio takes place. However, ubiquitous home computers and the growing use of more energy efficient fluorescent light bulbs are now resulting in more interference to listening to AM radio at home. To these sources of interference must be added interference from in-band, on-channel (“IBOC”) digital transmissions by adjacent channel stations. The *NPRM* suggests that this interference affects “low power stations” but the problem is not so limited. WNYH is licensed to operate at 25,000 watts; it is hardly a “low power” station.² Nonetheless, it experiences interference from the IBOC operations of WOR and WABC, both licensed to New York City, on 710 kHz and 770 kHz, respectively, on either side of WNYH at 740 kHz, within the WNYH service area. One consequence of this interference is that, in some areas, listeners in cars are unlikely to be able to find WNYH by using the “scan” or “seek” functions on their car radios.

WIN Radio, therefore, strongly supports – with some modifications -- the proposal to allow AM stations to operate FM translators and, necessarily, for daytime-only AM stations

² WNYH has a construction permit to change its directional antenna pattern and operate with 20,000 watts, which will result in more of its signal being directed to the west.

to originate programming on FM translators outside daytime hours. At present, daytime-only stations are prevented from providing their audiences with important services. As the “rush hour” begins long before sunrise, and continues for hours past sunset, daytime-only stations are unable to provide their listeners with vital information concerning traffic, weather and mass transit systems. If a local emergency arises after sunset, daytime-only stations cannot respond. Non-English speakers are particularly discriminated against when the radio stations they rely on for information are turned off or radically reduce power when the sun goes down.

Full-time stations, AM or FM, and their listeners, are not thus disadvantaged. For that reason, among AM stations, only daytime-only station owners who do not already own an FM station in the market should be eligible to hold an FM translator license. Limiting eligibility to daytime-only stations will have the additional benefit of ensuring that translator licenses do not pass, by assignment, to give multiple station owners that already own as many as eight stations in a market an additional spot on the radio dial.

Also, daytime-only stations should be permitted to operate FM transmitters anywhere within their protected service contours. The extremely congested FM band means that only a few frequencies are likely to be available, in most major markets, for translator use. For individual stations, the ability to find a usable frequency within a relatively small radius could be problematic. That should not mean that such stations should lose the opportunity to provide their audiences with a full-time service, or a service that is not degraded by interference from environmental sources. The *NPRM* refers (§ 19) to limiting operations to “areas in which . . . these stations provide their core service.” A misguided emphasis on “core” service risks losing much of the benefit of using translators.

Stations which provide a specialized service, whether foreign-language program or another format, often find their audience over a broad area. For example, if only two stations in the Washington, D.C., market broadcast Korean-language programming, then listeners to those stations will be from the District of Columbia, Maryland and Virginia, and not only from a single community or a small geographic area.

For the benefits sought in this proceeding to be realized, however, the FCC must revisit and reconsider its tentative conclusion in its *Third Report and Order and Second Further Notice of Proposed Rule Making* in MM Docket No. 99-25 (Creation of a Low Power FM Service), FCC 07-204, released December 11, 2007, to reserve the next “non-tabled” FM filing window for applications for new low power FM stations. As a result of upgrades and move-ins of full-power stations, the non-reserved portion of the FM band in major metropolitan markets is nearly saturated and, as previously noted, only a handful of frequencies – at most – remain available for FM translators. A filing window reserved for LPFM applications will almost certainly totally exhaust the available spectrum and negate the FCC’s objective in this proceeding – to revitalize and ensure the viability of AM service.

While LPFM stations might potentially offer additional diversity to small, niche audiences, they have no specific local programming obligations, and little accountability (for example, they are not required to keep a public inspection file). Daytime-only AM stations, on the other hand, also provide diversity through specialized programming directed to different nationalities and other interest groups, and that programming is accessible to much larger audiences over a wider area. The first opportunity to apply for “non-tabled” FM frequencies, therefore, should go to daytime-only AM licensees, not to LPFM applicants. To the extent the FCC hopes to both promote AM broadcasting and

accommodate the LPFM service, limiting eligibility to operate translators to daytime-only AM licensees who do not already own an FM station in the same market would have a significant depressant effect on the number of applications; as noted in the *NPRM*, there only approximately 1,900 AM stations licensed for daytime-only operation, or for only secondary, very low power service at night.

With the modifications suggested above, the proposal in the *NPRM* should be adopted.

Respectfully submitted,

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